

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

FILED
2007 JUN 19 P 3:43

UNITED STATES OF AMERICA

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

V.

CRIMINAL COMPLAINT

Elmer OCHOA-Alvarez

07 70357

CASE NUMBER:

PVT

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, May 22, 2007, in Monterey County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

Richard W. Wieking
ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Elmer Ochoa-Alvarez
Signature of Complainant

Sworn to before me and subscribed in my presence,

6/19/07
Date

at

San Jose, California
City and State

Patricia V. Trumbull
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Patricia V. Trumbull
Signature of Judicial Officer

A72 986 463

RE: Elmer OCHOA-Alvarez

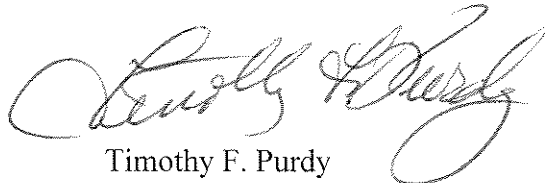
I, Timothy F. Purdy, am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Elmer OCHOA-Alvarez, is a 35 year-old male, citizen and native of Honduras, born on February 12, 1972, in Comayagua, Honduras, substantiated by both statements that the DEFENDANT had made on May 22, 2007, to ICE Immigration Enforcement Agent (IEA) Jesse Cruz of the San Jose, California DRO Sub-Office, Honduran Embassy documents, his valid Honduran passport and a sworn statement given on September 8, 2004;
- (2) The DEFENDANT has been assigned Alien Registration number of A 72 986 463, FBI number of 77161WA8, and California Criminal State ID Number of A10722682;
- (3) On June 9, 1994, the DEFENDANT was determined to be unlawfully present in the United States by order of the Immigration Judge, EOIR, San Francisco, CA and ordered removed from the United States to Honduras;
- (4) On January 26, 1996, the DEFENDANT was convicted in the Superior Court of California – County of San Francisco, of the offense of DUI FOR ALCOHOL/DRUGS, a misdemeanor, a violation of California Vehicle Code Section 23152 and sentenced to two days in jail;
- (5) On August 4, 1999, the DEFENDANT was determined to be unlawfully present in the United States by the Field Office Director Portland, OR and his previous order of deportation from the United States to Honduras was reinstated;
- (6) On November 21, 2003, the DEFENDANT was convicted in the Superior Court of California – County of San Francisco, of the offense of POSSESSION/PURCHASE FOR SALE A CONTROLLED SUBSTANCE – HEROIN, a felony, in violation of California Health and Safety Code Section 11350, and was sentenced to 3 years in state prison;
- (7) On November 4, 2004, the DEFENDANT was determined to be unlawfully present in the United States by the Field Office Director San Francisco, CA and his previous order of deportation from the United States to Honduras was reinstated;

Elmer OCHOA-Alvarez

A 72 986 463

- (8) On May 22, 2006, the DEFENDANT was convicted in the Superior Court of California – County of San Francisco, of the offense of POSSESSION AND PURCHASE FOR SALE CONTROLLED SUBSTANCES – {14.25 Grams or more of base cocaine}, a felony, in violation of California Health and Safety Code Section 11351, and was sentenced to two years in state prison. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (9) On, May 22, 2007, the DEFENDANT was encountered by IEA Jesse Cruz, at the Soledad State Prison {Monterey County}, and determined to be unlawfully present in the United States after a prior deportation. IEA Cruz advised the DEFENDANT his Miranda rights in the Spanish language. After being read his Miranda rights, the DEFENDANT, declined to provide a written sworn statement to IEA Cruz during his interview;
- (10) The DEFENDANTS official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (11) Based on the above stated information, this Officer believes there is sufficient probable cause that the DEFENDANT is present within the United States in violation of Title 8, United States Code, Section 1326.



Timothy F. Purdy
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 19 day of June, 2007



Patricia V. Trumbull
UNITED STATES MAGISTRATE JUDGE